**Witness Protection: Effectively Representing a Jehovah’s Witness Applicant for Naturalization**

_Oath of Allegiance_ “I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God.”

This is the text of the Oath of Allegiance, a naturalization applicant’s stated commitment to the United States as a citizen. The oath is at issue for many naturalization applicants, especially practitioners of the Jehovah’s Witness faith, because “[i]f the applicant cannot demonstrate attachment to the principles and form of government of the United States, and favorable disposition to the good order and happiness of the United States, he or she will probably not be able to take a meaningful oath.”

According to “Paying Back Caesar’s Things to Caesar,” an article found in the May 1, 1996, edition of _Watchtower_, the official publication of Jehovah’s Witnesses, members of its faith cannot bear arms or perform military service. Such a position presents a challenge when applying for U.S. citizenship. Questions 36–38 of Part H of Form N-400, Application for Naturalization, specifically inquires as to an applicant’s ability to take a meaningful oath—his or her willingness to take the full Oath of Allegiance, willingness to bear arms, and willingness to perform noncombatant services in the U.S. Armed Forces if required by law. See [www.uscis.gov/files/form/N-400.pdf](http://www.uscis.gov/files/form/N-400.pdf). A Jehovah’s Witness cannot, in good faith, maintain the principles of the faith’s training and beliefs when answering such questions in the affirmative.

According to a director of a Citizenship and Immigration Services Field Office (who requested not to be named), the service has “no specific procedures in place for any religious denominations.” However, the director suggests including “evidence of affiliation provided by the organization as a good faith step in evidencing one’s claim.” The service’s formal guidance has been limited, in many cases, to issuing Form N-14, Form Letter for Deficient Application or Petition, at or after the naturalization interview. Form N-14 specifically requests “[a] letter from your religious denomination that you are a member in good standing. A statement from your religious denomination regarding its principle regarding the bearing of arms and/or a statement expressing your own personal beliefs about the same.”

Form N-14 (emphasis added). Awaiting such a request, however, can cause an applicant undue delay.

**Practice Pointers**

In order to avoid deficiency notices and the delay such notices entail, practitioners are urged to provide ample supporting evidence with the initial Form N-400 package. In addition to providing an original Form G-28, Notice of Entry of Appearance as Attorney or Representative, the actual Form N-400, fees, photos, a copy of the front and back of the Lawful Permanent Resident card, and other applicable evidence, practitioners should also include a copy of the _Watchtower_ publication (obtainable from the author), a letter from the applicant’s Kingdom Hall Presiding Overseer stating that the applicant is a member in good standing and providing the applicant’s baptismal date, and a personal statement from the applicant. Practitioners are also encouraged to review the N-400 instructions and the redacted public version of the Adjudicator’s Field Manual, which can be found at [www.uscis.gov/propub/DocView/afmid/1/187/189/197](http://www.uscis.gov/propub/DocView/afmid/1/187/189/197).

Case law, sections of the Immigration and Nationality Act, and experience dictate that an applicant such as a Jehovah’s Witness who cannot take the full Oath of Allegiance may take a modified oath. Specifically, the applicant may verbally state that he or she wishes to omit the phrase “on oath” and instead use “and solemnly affirm.” The applicant may also elect to omit the phrases “so help me God,” willingness to “bear arms
on behalf of the United States,” and willingness to “perform noncombatant services in the Armed Forces of the United States.”14 Other than these phrases, no part of the oath may be modified.

Conclusion
Representing a Jehovah’s Witness who is seeking U.S. citizenship can be a rewarding and unique experience. During the initial consultation with the client, practitioners should ask each potential naturalization applicant whether he or she is a Jehovah’s Witness. Filing thorough Form N-400 packages for Jehovah’s Witnesses can avoid undue delays. TFL

Additional resources
• Official Jehovah’s Witness Web page: www.watchtower.org
• Jehovah’s Witnesses’ Legal Counsel: Carolyn Wah, CWAh@jw.org

Elizabeth Ricci practices immigration law exclusively with Rambana & Ricci, P.A., in Tallahassee, Fla., where she is managing partner and the Immediate past Jacksonville USCIS liaison for the Central Florida Chapter of the American Immigration Lawyers Association. She is available as a mentor in Jehovah’s Witness naturalization cases and would be happy to provide the Watchtower articles, samples of the suggested congregation letter, and statement of personal beliefs mentioned in this article. She may be contacted at Elizabeth@rambana.com.

Endnotes
3The oath may be modified for applicants other than Jehovah’s Witnesses. Even though such applicants are not required to believe in God or belong to a specific church or religious denomination, they must have a sincere and meaningful belief that has a place in their lives that is equivalent to the role that is held by someone with traditional religious convictions. See U.S. v. Seeger, 380 U.S. 163 (1965) and Welsh v. U.S., 398 U.S. 335 (1970); see also INA § 337 (8 U.S.C. 1448).
4See Interpretations INA § 337.2(b)(2)(v).

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The medical device industry is the latest to feel the effect of an industrywide probe. In an early case, in 2004, Schering-Plough settled claims that its Polish subsidiary had contributed to the favorite charity of a regional health fund director (a Polish castle restoration project) to induce purchases. Johnson & Johnson voluntarily disclosed its own possible FCPA violations to the SEC in 2007. In June 2008, Wright Medical Group joined SEC targets Smith & Nephew PLC, Biomet Inc., Medtronic Inc., Zimmer Holdings Inc., and Stryker Corp. in a probe of alleged payments made to European doctors for using or prescribing the companies’ products. Also in June, AGA Medical Corporation, a privately held manufacturer of medical devices, entered into a deferred prosecution agreement with the Justice Department concerning payments made by the company’s Chinese distributor.

The DOJ has also escalated prosecutions of individuals. Since 1990, it has charged more than twice as many people as companies, with a corresponding increase in the severity of penalties.11 During the first 25 years the act was in force, four companies paid $1 million to settle FCPA enforcement actions. Since January 2005, six multimillion-dollar fines and disgorgements have been ordered—four of them more than $15 million each.12 In April 2007, Baker Hughes agreed to pay a $44.1 million penalty in connection with payments to employees of a Kazakhstan-owned oil company. Parallel litigation, which takes the form of shareholder suits, employee stock pension fund claims, or competitors’ claims that a bribe caused a competitive disadvantage, is a risk for individuals as well.

On the brighter side, the DOJ has begun to use deferred prosecution agreements, in which the government agrees not to prosecute a violation of the FCPA in exchange for future compliance; however, any further violation results in prosecution for both offenses. Even though the company in question would obviously prefer deferred prosecution to an indictment, deferred prosecution also involves years of investigation, significant costs related to compliance and monitoring, and general disclosure to shareholders.13 In addition, deferred prosecution often leads to prosecution of individuals.

Compliance is Key
How is a person to distinguish a lawful “facilitating payment” from an illegal bribe, or a legal “routine” action from an unlawful benefit, or a legal product “promotion” from an illegal boondoggle? Despite heightened enforcement and the FCPA’s land mines, it is possible to minimize the risk of a government inquiry and to limit the damage if an investigation does result. Self-assessment, effective and documented compliance, investigation, and professional handling of suspected violations translate to fewer and shorter investigations, lower penalties, and reduced likelihood of prosecution.

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